

**REMARKS**

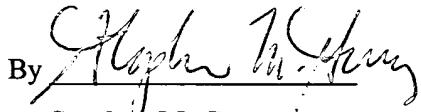
Claims 1-19 are in this application. Reconsideration of the claims 1-19 is being requested.

Claims 1-19 were rejected under 35 USC 102(b) as being anticipated by Gitlin (6,018,528). The office action alleges that Gitlin discloses a scheduler which varies its scheduling according to the Bit Error Rate (BER). The office action implies that the BER correspond to a rate of channel quality variation. Applicant respectfully traverses. Claims 1 and 10 recite the limitation of “wherein the time span is based on a rate of channel quality variation.” The rate of channel quality variation corresponds to a “frequency in which the channel quality of the wireless link between the base station and wireless unit(s) may vary.” See page 9 lines 1-4 of the specification. By contrast, BER corresponds to a frequency of bit errors. It may be used to indicate when channel quality has changed. It does not, however, indicate the frequency at which the channel quality changes. Accordingly, it is felt that claims 1 and 10 are patentable 35 USC 102(b) over Gitlin.

Claims 2-9 and 11-19 depend upon, and include all the limitations of, claims 1 and 10, respectively. For the reasons stated earlier, Gitlin does not teach or suggest a time span based on a rate of channel quality variation. Accordingly, it is felt that claims 2-9 and 11-19 are patentable 35 USC 102(b) over Gitlin.

In view of the foregoing, allowance of all the claims presently in the application is respectfully requested, as is passage to issuance of the application. If the Examiner should feel that the application is not yet in a condition for allowance and that a telephone interview would be useful, he is invited to contact Applicants' attorney, **Jimmy Goo, at (908) 582-7886.**

Respectfully,  
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